

Congress of the United States
Washington, DC 20515

MEMORANDUM

July 14, 2023

**To: Democratic Members of the Committee on Oversight and Accountability and
Committee on Homeland Security**

Fr: Democratic Staff

Re: Transcribed Interviews of U.S. Border Patrol Chief Patrol Agents

At the beginning of the 118th Congress, the Oversight and Accountability Committee and Homeland Security Committee Republicans launched investigations into the conditions along the southwest border. As part of this investigation, and in a purported effort to assist the Committees in “fully understanding” the situation at the border, the Chairs of each Committee requested transcribed interviews with the U.S. Border Patrol Chief Patrol Agents charged with overseeing the various sectors of the southwest border.¹ In reality, these investigations have amounted to little more than an embarrassingly transparent effort to find some basis to justify Republican calls to impeach Department of Homeland Security Secretary Alejandro Mayorkas. Homeland Security Committee Chairman Mark Green made this clear when, before conducting a single transcribed interview, he informed donors that he would deliver impeachment charges based on Secretary Mayorkas’s “dereliction of duty and his intentional destruction of our country through the open southern border.”² Oversight and Accountability Committee Chairman James Comer revealed in January 2023—just a few weeks after assuming the chairmanship—that he “would vote to impeach Mayorkas right now.”³

As part of their partisan investigation, the Committees requested transcribed interviews of U.S. Border Patrol Chief Patrol Agents charged with overseeing sectors of the southwest border

¹ Letter from Chairman James Comer, Committee on Oversight and Accountability to Troy Miller, Acting Commissioner, Customs and Border Protection (Feb. 27, 2023) (online at <https://oversight.house.gov/wp-content/uploads/2023/02/23-02-26-Letter-to-CBP-requesting-TIs-of-CPAs.pdf>); Committee on Homeland Security, *Press Release: Chairman Green: Homeland Security Republicans Will Interview Every Border Sector Chief to “Investigate Whether or Not Mayorkas Lied to Congress”* (Mar. 17, 2023) (online at <https://homeland.house.gov/chairman-green-homeland-security-republicans-will-interview-every-border-sector-chief-to-investigate-whether-or-not-mayorkas-lied-to-congress/>).

² *Key Republican Tells Donors He Will Pursue Impeachment of Mayorkas*, New York Times (Apr. 18, 2023) (online at www.nytimes.com/2023/04/18/us/politics/republicans-mark-green-mayorkas-impeachment.html).

³ *Rep. Comer Says He Would Vote to Impeach Mayorkas “Right Now,”* Fox News (Jan. 21, 2023) (online at www.foxnews.com/video/6319038235112).

between ports of entry.⁴ In light of the Committees' requests to conduct transcribed interviews of the Chief Patrol Agents overseeing the southwest border, six have appeared voluntarily for transcribed interviews before the Committees between April 25, 2023, and July 12, 2023. In addition, two Chief Patrol Agents testified before the Oversight Committee for multiple hours on February 7, 2023.⁵ In total, eight of the nine Chief Patrol Agents stationed at the southwest border have appeared before Congress in 2023 to offer their perspectives.⁶ These interviews remain ongoing, and the Committees have requested interviews with the remaining Chief Border Patrol Agents.

The statements and first-hand experiences offered by the Chief Patrol Agents reflect a reality at the southwest border that is fundamentally at odds with the radical, false claims asserted by Republicans, including allegations that the southwest border is in "crisis" and that the Biden-Harris Administration is deliberately refusing to secure the southwest border.⁷

Democratic Committee staff is providing this memorandum to share the perspectives of Chief Patrol Agents which Republicans have chosen to ignore because they contradict the false and misleading claims promoted in order to justify efforts to impeach Secretary Mayorkas.

I. CHIEF PATROL AGENTS CONFIRMED THAT THE BORDER IS SECURE

⁴ Letter from Chairman James Comer, Committee on Oversight and Accountability, to Troy Miller, Acting Commissioner, Customs and Border Protection (Feb. 27, 2023) (online at <https://oversight.house.gov/wp-content/uploads/2023/02/23-02-26-Letter-to-CBP-requesting-TIs-of-CPAs.pdf>); Committee on Homeland Security, *Press Release: Chairman Green: Homeland Security Republicans Will Interview Every Border Sector Chief to "Investigate Whether or Not Mayorkas Lied to Congress"* (Mar. 17, 2023) (online at <https://homeland.house.gov/chairman-green-homeland-security-republicans-will-interview-every-border-sector-chief-to-investigate-whether-or-not-mayorkas-lied-to-congress/>). U.S. Border Patrol divides the national border into three discrete sectors: coastal, northern, and southwest. The southwest border sector, in turn, is divided into nine sub-sectors: San Diego, El Centro, Yuma, Tucson, El Paso, Big Bend, Del Rio, Laredo, and Rio Grande Valley. See Customs and Border Protection, *Border Patrol Sectors* (online at www.cbp.gov/border-security/along-us-borders/border-patrol-sectors) (accessed July 5, 2023). Chief Patrol Agents are charged with overseeing all operations and activities in a single assigned sector along the southwest border.

⁵ Committee on Oversight and Accountability, *Hearing on the Front Lines of the Border Crisis: A Hearing with Chief Patrol Agents* (Feb. 7, 2023) (online at <https://oversight.house.gov/hearing/on-the-front-lines-of-the-border-crisis-a-hearing-with-chief-patrol-agents/>).

⁶ Committee on Homeland Security, *Hearing on Failure By Design: Examining Secretary Mayorkas' Border Crisis* (Mar. 15, 2023) (online at www.congress.gov/event/118th-congress/house-event/115476); Committee on Homeland Security, *Hearing on Open Borders, Closed Case: Secretary Mayorkas' Dereliction of Duty on the Border Crisis* (June 14, 2023) (online at www.congress.gov/event/118th-congress/house-event/116092). As of the date of this memorandum, the Committees have not conducted an interview with a representative of only one sector along the southwest border—the Yuma sector. A transcribed interview was scheduled to occur with the Chief Patrol Agent of the Yuma sector, Patricia McGurk-Daniels, but was postponed because of her reassignment to a different sector in June 2023.

⁷ Committee on Oversight and Accountability, *Biden's Border Crisis* (online at <https://oversight.house.gov/landing/bidens-border-crisis/>) (accessed July 5, 2023); *Comer Calls on Border Officials to Testify on Biden Policies "Fueling" Migrant Crisis*, Fox News (Jan. 19, 2023) (online at www.foxnews.com/politics/comer-calls-border-officials-testify-biden-policies-fueling-migrant-crisis).

A primary false narrative repeatedly advanced by Congressional Republicans describes a southwest border in crisis as a direct result of the Biden-Harris Administration’s decisions. Speaker of the House Kevin McCarthy, for instance, has explained that “President Biden’s border crisis has spiraled into full-on chaos.”⁸ Chairman Comer, during a hearing he convened titled “On the Front Lines of the Border Crisis: A Hearing with Chief Patrol Agents,” stated that “President Biden and his administration have created the worst border crisis in American history.”⁹

During their transcribed interviews, the Chief Patrol Agents presented assessments of border security unequivocally contrary to this Republican narrative. Chief Patrol Agents disagreed that a crisis currently exists at the southwest border and, in their own words, described their operations to obtain border security as successful.

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023):

Q: Chief Ortiz in the past has described what’s gone on at the southwest border the last couple years as a crisis. Would you agree that there’s a crisis at the southwest border?

A: Speaking for Laredo, I don’t have a crisis going on right now, so—

Q: What about with your experience in [Rio Grande Valley sector]?

A: RGV, there was periods of times when we were overwhelmed, but, like, right now, things are normal. They’re good.¹⁰

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023):

Q: And then at our March 2023 hearing for the Committee on Homeland Security, Chief Ortiz stated, quote: “With the investments that this Congress has made into the Border Patrol, CBP as a whole, we have greater situational awareness now than I’ve ever had,” unquote.

Do you agree with that statement?

A: I’m not privy to the specific conversation, and I know that’s just probably a piece of—so I’ll speak for the Del Rio Sector.

⁸ Speaker of the House, *Speaker McCarthy Floor Speech on the Secure the Border Act* (May 10, 2023) (online at www.speaker.gov/speaker-mccarthy-floor-speech-on-the-secure-the-border-act/).

⁹ Committee on Oversight and Accountability, *Press Release: Comer: The State of Our Border is in Crisis* (Feb. 7, 2023) (online at <https://oversight.house.gov/release/comer-the-state-of-our-border-is-in-crisis/>).

¹⁰ Committee on Oversight and Accountability and Committee on Homeland Security, *Transcribed Interview of Chief Patrol Agent Joel Martinez, U.S. Border Patrol, Department of Homeland Security* (June 1, 2023).

Because we have gotten more detection capability, because we have, as you said, more on the way, we've got the additional processing coordinators, we are in a better situation than we were in years past.¹¹

Chief Patrol Agent Sean McGoffin, Big Bend Sector (Apr. 25, 2023):

Q: Do you believe that the high flow that Big Bend Sector encountered beginning in 2021 that peaked in May had a negative impact on Border Patrol's ability to reduce the number of got-aways in Big Bend Sector?

A: No, because obviously we reduced the entries and got-aways in Big Bend Sector over the course of the last two years. We've been very successful.

Again, it goes back to how we deploy, what we do to operate. We had an area that had a large number of got-aways. It's down to less than 5 percent got-aways today.

We were able to, again, shape the landscape and the operational environment by how we deploy, being successful, and taking—utilizing operational advantage, making sure that we're being very efficient and effective in our tactics to ensure that we have the most amount of people, agents on the line.

Those are all key things that we're really trying to do. And, again, it does, it shapes the environment and it makes change.

Q: How would you define success for Border Patrol? Would you say that lowering the number of crossings is success? Or would you say fast-processing everyone that gets here is success?

A: I think lowering as many people—lowering the encounters to the greatest degree is a success. That's what I've done in my sector, and I think it has been successful. I think as we continue to try to, you know, reduce that number, I think we're being successful in what we do.

¹¹ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Jason Owens, U.S. Border Patrol, Department of Homeland Security (May 5, 2023). In July 2023, Jason Owens assumed the role of Chief of U.S. Border Patrol. See Customs and Border Protection, *Press Release: Statement from Acting Commissioner Troy A. Miller on CBP Leadership Transitions* (June 9, 2023) (online at www.cbp.gov/newsroom/national-media-release/statement-acting-commissioner-troy-miller-cbp-leadership).

Q: And so would you say that you have been successful in operating a safe and secure border at the Big Bend Sector?

A: You know, I would say that we have operational advantage in Big Bend Sector and we do everything we can to ensure a safe and secure border.¹²

In a similar vein, Republicans have put forth sinister conspiratorial notions that the Biden-Harris Administration has deliberately created a crisis at the southwest border for political gain. Representative Jim Jordan, Chairman of the House Judiciary Committee, explained, “Frankly, I think it’s intentional. I don’t know how anyone with common sense or logic can reach any other conclusion. It seems deliberate, it seems premeditated, it seems intentional.”¹³ Chairman Green recently stated, “You can look at every decision they’ve made. It’s to open our border as wide as possible. They created the migration crisis in this region...It’s a travesty, and it’s intentional.”¹⁴ Chairman Comer has also expressed the false belief that “the Biden Administration’s deliberate actions are fueling” a border crisis.¹⁵

The Chief Patrol Agents, however, clearly explained that they have never received orders or directives to cease operations to secure the southwest border, and policies implemented have remained consistent with the law enforcement duties of U.S. Border Patrol agents.

Chief Patrol Agent Scott Good, El Paso Sector (June 29, 2023):

Q: And is it fair to say that the agents that serve under you strive to secure the border every day?

A: They do.

Q: And, given that, you’ve never given them an order to stop securing the border. Is that right?

A: Correct.

Q: And, in your role as chief patrol agent of El Paso, you’ve never received an order to stop securing the border. Is that right?

¹² Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Sean McGoffin, U.S. Border Patrol, Department of Homeland Security (Apr. 25, 2023).

¹³ *Rep. Jim Jordan Calls Biden Border Crisis “Intentional” at Judiciary Hearing*, New York Post (Feb. 1, 2023) (online at <https://nypost.com/2023/02/01/bidens-border-crisis-scrutinized-by-house-gop/>).

¹⁴ Committee on Homeland Security, *Chairman Green on Secretary Mayorkas’ Dereliction of Duty at the Border: “The American People Are Not Safe”* (June 15, 2023) (online at <https://homeland.house.gov/chairman-green-on-secretary-mayorkas-dereliction-of-duty-at-the-border-the-american-people-are-not-safe/>).

¹⁵ *Comer Calls on Border Officials to Testify on Biden Policies “Fueling” Migrant Crisis*, Fox News (Jan. 19, 2023) (online at www.foxnews.com/politics/comer-calls-border-officials-testify-biden-policies-fueling-migrant-crisis).

A: Correct.

Q: You've never received an order to stop securing the border when you were in the Grand Forks Sector. Is that correct?

A: Correct.¹⁶

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023):

Q: And have you ever instructed your agents to stop securing the border?

A: No.

Q: In your role as chief patrol agent, have you ever received an order from Secretary Mayorkas to stop securing the border?

A: No.¹⁷

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023):

Q: Are there, in your view, changing policies that were—to quote from this inspector general report—that were inconsistent with your law enforcement duties?

A: No.

Q: So you do not share the sentiment of the respondents that were providing responses to this inspector general's audit?

A: I have not had any policy that I have found to be inconsistent with my duties as a Border Patrol agent.¹⁸

A. Border Operations Have Not Extended “An Open Invitation to Criminals”¹⁹

¹⁶ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Anthony “Scott” Good, U.S. Border Patrol, Department of Homeland Security (June 29, 2023).

¹⁷ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Joel Martinez, U.S. Border Patrol, Department of Homeland Security (June 1, 2023).

¹⁸ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Jason Owens, U.S. Border Patrol, Department of Homeland Security (May 5, 2023).

¹⁹ U.S. Representative Paul Gosar, *Press Release: Statement Regarding May Illegal Border Crossings* (June 21, 2023) (online at <https://gosar.house.gov/news/documentsingle.aspx?DocumentID=5852>).

Committee Republicans have falsely claimed that Secretary Mayorkas has fostered a culture of lawlessness and President Biden’s border policies are an “open invitation to criminals and drug cartels to cross into our country unchecked.”²⁰

Each Chief Patrol Agent explained that U.S. Border Patrol continues to screen individuals it apprehends for criminal backgrounds or suspected ties to terrorist organizations and processed accordingly. In particular, the Chief Patrol Agents made clear that biometric data from apprehended individuals is screened against American law enforcement databases and, in some instances, even information from foreign governments, for various factors. Apprehended individuals who are found to possess a criminal history are not unilaterally released into the United States without diligent consultation with other law enforcement agencies. Moreover, in instances when U.S. Border Patrol agents apprehend a wanted criminal or suspected criminal, that person is referred to the Department of Justice (DOJ), Drug Enforcement Agency (DEA), and/or the Federal Bureau of Investigation (FBI).

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023):

Q: And, when migrants are detained, they’re screened for their criminal history, whether they’re on a terrorist watch list, anything else in their record. Is that correct?

A: Yes.

Q: And, if someone has a flag, like an outstanding warrant, would they be referred to another law enforcement agency?

A: It depends on the flag, whether we would refer them to another agency or we would handle it ourselves.

Q: Okay. So let’s say, if one someone is wanted for a criminal offense, is it fair to say they’re not just released into the United States, there’s some follow up?

A: Correct.²¹

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023):

Q: And when migrants are detained, you mentioned before they’re screened, for example, for criminal history. When there’s a flag, like an outstanding warrant, would they be referred to another law enforcement agency?

²⁰ *Id.*

²¹ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Aaron Heitke, U.S. Border Patrol, Department of Homeland Security (May 9, 2023).

A: Yes.

Q: And if someone is wanted for a criminal offense, they're not just released into the United States. Is that correct?

A: No. If they have anything in their background that is of concern, we work to—with our investigative partners and our local law enforcement partners and, if needs be, they are turned over to them for action before they return to the immigration process, or they remain—in the immigration process and they're removed back to their country of origin.²²

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023):

Q: And when a migrant is detained, are they screened for criminal history, for being on the watch list, for anything that might be in their record?

A: Yes.

Q: Okay. And that's—everyone—is screened, correct?

A: Yes.

Q: Okay. And I know you touched on this a bit before, so my apologies, but when someone has a flag, say an outstanding warrant, would they be referred to another law enforcement agency.

A: They'd be referred to the agency that placed that flag on them, yes.

Q: Okay. And if someone is wanted for a criminal offense, is it correct to say they're not just released into the United States?

A: That's correct.²³

Chief Patrol Agent Scott Good, El Paso Sector (June 29, 2023):

Q: And if someone is caught, attempting to smuggle through one of these vehicle checkpoints, they'd be arrested. Correct?

A: Yes.

²² Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Jason Owens, U.S. Border Patrol, Department of Homeland Security (May 5, 2023).

²³ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Joel Martinez, U.S. Border Patrol, Department of Homeland Security (June 1, 2023).

Q: And would you mind shedding more light on what happens when Border Patrol arrests someone for attempting to smuggle? For example, would that person be detained and then referred to a prosecuting agency?

A: Yes.

Q: And then if people are detained after arrest, are they screened for prior criminal history or kind of do they undergo biometric screening, as well?

A: They do.²⁴

B. U.S. Border Patrol Continues to Effectively Interdict Illicit Drugs

Republicans have vocally promoted the fictitious claim that deadly narcotics, including fentanyl, are flowing freely into the United States through the southwest border. Chairman Comer has stated that, “Everyday, the Biden Administration is making the drug cartel richer” and “enabling drugs such as fentanyl to flow into American communities.”²⁵

In contrast, the Chief Patrol Agents emphasized that U.S. Border Patrol has robust and successful enforcement operations to combat cartel activity and seize the illicit narcotics and other contraband that cartels attempt to smuggle into the United States.

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023):

Q: Okay. What other strategies are available to Border Patrol that can help dictate cartel movement and strategy?

A: In addition to the conventional law enforcement efforts that we’re talking about—and this is the agents out on patrol—we have a very robust targeted enforcement effort where we work hand in hand with our investigative partners to actually disrupt, degrade, and dismantle those networks and those pipelines that are the smugglers. So the ability to go after them and deliver a consequence for being involved in that smuggling enterprise is huge, as much as being able to actually interdict the flow that they’re responsible for.

Q: What are the consequences that are typically used against the smugglers?

²⁴ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Anthony “Scott” Good, U.S. Border Patrol, Department of Homeland Security (June 29, 2023).

²⁵ *James Comer Warns Against Mexican Cartels As Border Crisis Rages On: Can’t “Turn a Blind Eye”*, Fox News (Mar. 7, 2023) (online at www.foxnews.com/video/6322078436112); *Comer Calls on Border Officials to Testify On Biden Policies “Fueling” Migrant Crisis*, Fox News (Jan. 19, 2023) (online at www.foxnews.com/politics/comer-calls-border-officials-testify-biden-policies-fueling-migrant-crisis).

A: When we're able to leverage a multitude of agencies, we're able to bring several different authorities and consequences. At the end of the day, whether we charge them with 8 U.S.C. 1324 and they go to jail for that, or whether they go to jail for a State charge or a local charge, or whether they go to jail for tax evasion or money laundering, it doesn't matter as long as they are taken out of action and they are sent to jail because that's what's disrupting that pipeline and reducing the flow as a result. The ability to work hand in hand with those partner agencies and those investigative efforts is critical.²⁶

Chief Patrol Agent Sean McGoffin, Big Bend Sector (Apr. 25, 2023):

Q: Do Border Patrol agents in Big Bend routinely interdict and arrest these people who are attempting to smuggle illicit drugs?

A: Yes.

Q: And so is it possible that the fentanyl flow may be occurring between the ports of entry, that flows, and that helps a success rate to explain that rarity of interdiction?

A: I can't speak beyond the Big Bend Sector. But in the Big Bend Sector, the majority of all narcotics is marijuana.

Q: Is it your testimony that you don't believe that fentanyl flows between the ports of entry in the Big Bend Sector?

A: No. I just merely pointed out that the evidence doesn't show that there's a lot of fentanyl coming through between the ports of entry.²⁷

C. Republicans Rely on an Unachievable Standard to Measure Border Security

Congressional Republicans have repeatedly touted the misleading claim that there is no "operational control" of the border.²⁸ "Operational control," as defined in statute, represents an

²⁶ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Jason Owens, U.S. Border Patrol, Department of Homeland Security (May 5, 2023).

²⁷ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Sean McGoffin, U.S. Border Patrol, Department of Homeland Security (Apr. 25, 2023).

²⁸ Chairman Jordan, for example, has stated that "the Biden administration does not have operational control of the border." *Republicans Slam Biden's Handling of the US-Mexico Border in First Congressional*

inherently unachievable standard: the prevention of all unlawful entries into the United States. As the Chief Patrol Agents explained, no administration in the decades they have served with U.S. Border Patrol has ever achieved “operational control.”

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023):

Q: Now, this paragraph reads: "OPERATIONAL CONTROL DEFINED. In this section, the term ‘operational control’ means the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband."

Chief Martinez, based on your tenure and knowledge of Border Patrol operations throughout your career since 1992, has there been a year during your career where Border Patrol has prevented all unlawful entries into the United States?

A: No.

Q: And you would agree, then, based on your answer there, as defined by the Secure Fence Act, operational control has never been achieved under any administration?

A: Correct.²⁹

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023):

Q: Chief Heitke, based on your tenure and knowledge of Border Patrol operations, has there been a year during your career where Border Patrol has prevented all unlawful entries into the United States?

A: No.

Q: And to your knowledge, has Border Patrol ever prevented all unlawful entries into the United States?

A: No.

Q: Based on your answers there, you would agree then that operational control as defined here in the Secure Fence Act has never been achieved.

Hearing, CNN (Feb. 1, 2023) (online at www.cnn.com/2023/02/01/politics/border-policies-hearing-house-judiciary/index.html).

²⁹ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Joel Martinez, U.S. Border Patrol, Department of Homeland Security (June 1, 2023).

A: Correct.

Q: Outside of the 2006 Secure Fence Act, which we just reviewed here, over the years Border Patrol and the Department of Homeland Security have internally used different metrics to review operational success at the border. Is that correct?

A: Yes.³⁰

During their transcribed interviews, the Chief Patrol Agents further revealed that U.S. Border Patrol's own, internal definition of "operational control" has historically differed from the statutory definition.

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023):

Q: Based on these exhibits and what we just walked through, you would agree with me that operational control has been an evolving metric internally at Border Patrol. Is that right?

A: Yes.

Q: And you would agree that operational control has taken on different meanings over the years. Is that right?

A: Yes.

Q: Based on these definitions, would you agree that Border Patrol has operated under different definitions of operational control than what is listed in the Secure Fence Act?

A: Yes.³¹

II. BIDEN-HARRIS ADMINISTRATION POLICIES ARE SUCCESSFULLY REDUCING MIGRANT ENCOUNTERS

On May 11, 2023, the Biden-Harris Administration terminated the Title 42 Public Health Order ostensibly implemented to mitigate the effects of the COVID-19 pandemic.³² Prior to the

³⁰ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Aaron Heitke, U.S. Border Patrol, Department. of Homeland Security (May 9, 2023.).

³¹ *Id.*

³² *Title 42 Has Ended. Here's What It Did, and How US Immigration Policy is Changing*, Associated Press (May 12, 2023) (online at <https://apnews.com/article/immigration-biden-border-title-42-mexico-asylum-be4e0b15b27adb9bede87b9bbefb798d>).

expiration of Title 42, Republicans claimed that lifting the order would create an unprecedented migration surge to the southwest border and, in turn, completely overwhelm U.S. Border Patrol capabilities. Republicans made alarmist assertions that “the cartels have planned to overwhelm the system” after Title 42 expires, and that the resulting migration surge “will be unlike anything we’ve ever seen.”³³ Senator John Cornyn echoed this fearmongering, noting, “If you think things are bad now, they’re going to get worse come May 11th. What is now a flood is going to turn into a tsunami.”³⁴

In reality, the Chief Patrol Agents explained, there has thus far been a *reduction* in migrant encounters since the end of Title 42. Each Chief Patrol Agent interviewed after May 11, 2023, indicated that they have experienced no surges in migrant encounters and have faced no capacity issues handling the migrants they do encounter. Chief Patrol Agent Joel Martinez of the Laredo sector summarized this fact succinctly.

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023):

Q: Has the expiration of Title 42 caused any sort of capacity issues for you?

A: No.³⁵

All Chief Patrol Agents interviewed since the expiration of Title 42 have experienced reduced migrant encounters within their sectors since May 11, 2023. Their experiences in the line of duty corroborate Customs and Border Protection (CBP) data demonstrating that U.S. Border Patrol encountered significantly more migrants prior to the expiration of Title 42.³⁶

The Chief Patrol Agents interviewed by the Committees also explained that policies implemented by the Biden-Harris Administration have been successful in reducing the number of people who attempt to cross the southwest border unlawfully. These policies include a return to pre-COVID-19 pandemic enforcement tools, under Title 8 of the United States Code, which levies steep consequences for individuals who attempt to cross the border unlawfully, including a five-year ban on re-entry and possible prison time for repeated apprehensions. In addition, enhanced parole options for individuals fleeing Venezuela, Nicaragua, Haiti, and other countries experiencing economic and political turmoil have remained effective and have worked to

³³ *Trump Said Ending Title 42 Would Be “Day of Infamy” for Immigration at Border and... Oh, Wait*, USA Today (May 20, 2023) (online at www.usatoday.com/story/opinion/columnist/2023/05/20/title-42-end-not-migrant-surge-trump-republicans-predicted/70232324007/).

³⁴ *Republicans Warn of Impending Disaster as Border Braces for Title 42 End*, ABC 27 WHTM (May 3, 2023) (online at www.abc27.com/news/republicans-warn-of-impending-disaster-as-border-braces-for-title-42-end/).

³⁵ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Joel Martinez, U.S. Border Patrol, Department of Homeland Security (June 1, 2023).

³⁶ Customs and Border Protection, *Press Release: CBP Releases May 2023 Monthly Operational Update* (June 20, 2023) (online at www.cbp.gov/newsroom/national-media-release/cbp-releases-may-2023-monthly-operational-update).

increase the number of people entering the U.S. lawfully at ports of entry, instead of between the ports.³⁷

Chief Patrol Agent Scott Good, El Paso Sector (June 29, 2023):

Q: Okay. And Title 8 authorities impose criminal consequences on people who enter the U.S. without inspection. Is that right?

A: Yes.

Q: Can you explain what some of those criminal consequences are and what they might look like?

A: So the expedited removal would mean they're flown to their country of origin or to Mexico. And there's also prosecutions for 8 U.S.C. 1325, entry without inspection; and 1326, reentry; and, if they're smugglers, then 8 U.S.C. 1324 for smuggling.

Q: Okay. And then, under those authorities, Border Patrol agents can detain migrants who attempt to enter illegally, correct, just to be clear on that?

A: Agents can detain anyone illegally entering the United States in between the ports of entry.

Q: And under Title 8, just to confirm, an individual being removed would face a number of severe consequences, including potentially being barred from entry into the United States for a period of years, and also potentially face a criminal prosecution if they did violate that order not to enter. Is that correct?

A: Yes.

Q: And would you agree that with the implementation of those more severe consequences under Title 8 we have seen a drop of the number of individuals encountered?

³⁷ Department of Homeland Security, *Press Release: Secretary Mayorkas Remarks at a White House Press Briefing Ahead of Lifting of the Title 42 Public Health Order* (May 11, 2023) (online at www.dhs.gov/news/2023/05/11/secretary-mayorkas-remarks-white-house-press-briefing-ahead-lifting-title-42-public).

A: That is one reason, yes.³⁸

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023):

Q: Does Border Patrol strive to issue a consequence for every illegal entry in the Laredo sector?

A: We do.³⁹

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023):

Q: And you talked about—you talked about the importance of consequences.

A: Yes.

Q: So, in making sure that, you know, there are consequences, do you agree that things like increasing detention capacity, increasing the speed of removal of migrants who are deemed not to have a lawful basis to remain, those are all things that are helpful to your mission?

A: Yes.⁴⁰

Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023):

Q: And these low apprehension figures in your sector since you've been there, what would you say has caused those low apprehension figures?

A: The lower apprehension rates, I'll give you a figure from a couple of weeks ago. We apprehended 14 individuals approximately last week in 1 day, and that was 14. The sectors to the east and west of us were in the several hundred category.

So over the past 3 years, those low apprehension figures have followed that trend in the El Centro Sector, not only because we're the premier

³⁸ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Anthony “Scott” Good, U.S. Border Patrol, Department of Homeland Security (June 29, 2023).

³⁹ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Joel Martinez, U.S. Border Patrol, Department of Homeland Security (June 1, 2023). *See also* Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Gregory Bovino, U.S. Border Patrol, Department of Homeland Security (July 12, 2023).

⁴⁰ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Aaron Heitke, U.S. Border Patrol, Department of Homeland Security (May 9, 2023).

sector in the Border Patrol—and I hope you remember that more than anything, but because we provide something called a consequence to these individuals that come across the border.

Whether that consequence is in Mexico or the criminal prosecutions that you asked about, or the CVB ticket-writing, or the fact that we have ferreted out fake family groups trafficking in kids and things like that.

Those consequences have been ongoing and continuous....

Q: Right. And so it sounds—I'm just trying to make sure I understand what you're saying, but the efforts of you and your agents in applying consequences under U.S. law have been the key to your successful operations in the El Centro district?

A: They have contributed to that, yes.⁴¹

III. INCREASED RESOURCES PROVIDED BY THE BIDEN-HARRIS ADMINISTRATION HAVE BOLSTERED U.S. BORDER PATROL OPERATIONS

Contrary to Republican claims, the Biden-Harris Administration has allocated an unprecedented volume of resources to the southwest border to bolster border security. During their transcribed interviews, Chief Patrol Agents detailed the wide range of additional resources that have been provided to the sectors since the beginning of 2021.

For example, the fiscal year (FY) 2023 Omnibus Appropriations bill, signed into law by President Biden in December of 2022, increased Customs and Border Protection funding by \$3.2 billion over the prior year.⁴² Among other items, the bill included:

- \$7.153 billion for the U.S. Border Patrol for operations, hiring, and southwest border surge requirements—a 17% increase above FY 2022;
- \$65 million specifically designated for 300 additional Border Patrol agents; and
- \$230 million for between-the-ports technology such as autonomous surveillance towers.⁴³

⁴¹ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Gregory Bovino, U.S. Border Patrol, Department of Homeland Security (July 12, 2023).

⁴² Consolidated Appropriations Act, 2023, Pub. L. No. 117-328 (2022).

⁴³ *Id.*

Despite their vocal calls for increased border security, 200 House Republicans voted *against* providing this robust funding in the FY 2023 appropriations omnibus legislation.⁴⁴

The Chief Patrol Agents described the additional resources deployed to the southwest border by the Biden-Harris Administration, including technology to aid in the detection and apprehension of individuals seeking to unlawfully enter the United States—such as unmanned aerial surveillance systems and communication systems— and additional personnel, including processing coordinators to assist in processing activities that allow U.S. Border Patrol agents to return to field operations. The Chief Patrol Agents consistently agreed that the resources provided by the Biden-Harris Administration assisted their operations in securing the border, created a safer environment for U.S. Border Patrol agents, and improved morale among agents.

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023):

Q: So I'd like to turn to the most recent funding that Congress provided to Border Patrol.

So the 2023 omnibus, which passed in December, provided funding for 300 new Border Patrol agents in the workforce, which is the first increase since 2011.

Do you think these additional agents will be helpful in the role—in the job of securing the border?

A: Absolutely. We always need more agents.⁴⁵

Chief Patrol Agent Sean McGoffin, Big Bend Sector (Apr. 25, 2023):

Q: Do you use non-law enforcement personnel, such as border processing coordinators—

A: Yes.

Q: —or other individuals?

A: We have Border Patrol processing coordinators.

Q: And when did you start using those?

A: Last year, I believe. So we got our first one sometime last year.

⁴⁴ U.S. House of Representatives, Roll Call No. 549, 117th Cong. (2022).

⁴⁵ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Jason Owens, U.S. Border Patrol, Department of Homeland Security (May 5, 2023).

Q: So in response to the high flow you obtained border processing coordinators?

A: We were provided Border Patrol processing coordinators, yes.

Q: And can you explain the tasks that those non-law enforcement personnel would perform that would free up a Border Patrol agent to spend more time patrolling the border?

A: So they're processing individuals, helping to not only do that, but they might be remote processing, things of that nature, to help us make sure that we're having the data input that we need, reduces the amount of agents that are needed in our processing areas.

And I think we've been very successful with that. We're currently about—roughly 16 percent of our agents are actually processing as a whole. So that really helps our morale. Our morale is doing well in Big Bend Sector. And, again, a lot of factors with that as well.

Q: And while you've been in the Big Bend Sector, have you seen more communication devices or more of the detection technology deployed in your sector?

A: Yes, we have.⁴⁶

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023):

Q: And you just mentioned they're new. About when did San Diego start receiving processing coordinators?

A: About a year ago.

Q: And, in your opinion, has the rollout of this position, these people been helpful to your agents?

A: Yes.

Q: And has that allowed agents to return to the field, having these processing coordinators in your facilities?

⁴⁶ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Sean McGoffin, U.S. Border Patrol, Department of Homeland Security (Apr. 25, 2023).

A: Yes.

Q: And, just to be clear, getting agents back in the field, would you say that's allowed for improved border security operations?

A: Yes.

Q: And would you say these towers, these autonomous surveillance towers, are helpful for your sector?

A: Yes.

Q: And, since your arrival in the San Diego Sector, has the number of these autonomous surveillance towers employed in your sector increased?

A: I believe so, yes.

Q: Are you aware of plans to further increase the number of towers in your sector?

A: Yes.⁴⁷

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023):

Q: Okay. Fair enough. I did have one quick follow-up question about the deployment of [autonomous surveillance towers]. You were quoted as saying there's—that the towers are really popular with the field agents. Quote—I think it was in January of this year—"There are no surprises. The agents know exactly what they're walking into. It's a game changer."

Does that still hold true?

A: That still holds true.

Q: And those towers were really only deployed over the course of the last two years?

A: The majority of them, yes.

⁴⁷ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Aaron Heitke, U.S. Border Patrol, Department of Homeland Security (May 9, 2023).

Q: Okay. Fair. Does the deployment of these technologies give your agents really significantly improved situational awareness?

A: They do. We can see if they have—if the person that we are encountering has a weapon on them or not.

Q: That's great.

A: That's the biggest.

Q: And help might look like more agents, but also I think you've talked about how processing coordinators have helped, how the professional caretakers and medical support contractors have helped; data processing contractors have helped.

Is that fair to say, that all those things help you fulfill your mission at the border?

A: Yes.

Q: Now, Chief Martinez, earlier today we discussed the most recent funding Congress provided to Border Patrol in the fiscal year 2023 omnibus appropriations package. The package included \$24.6 million for suicide prevention and workforce wellness efforts as well as childcare services.

As a sector chief, how important is funding like that to supporting the well-being of your frontline workforce?

A: It's extremely important.

Q: Can you elaborate? Why is that important?

A: The resiliency program for one, the suicide prevention, you can't put a price tag on it. We're all sons and daughters, mothers and fathers, and some of the stuff that we see out in the field takes its toll on us eventually. So that is a very important program, very important funding that y'all—that the Congress gave us. So, yeah, that's very important to us.⁴⁸

⁴⁸ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Joel Martinez, U.S. Border Patrol, Department of Homeland Security (June 1, 2023).

Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023):

Q: Just back on the—I know we touched on Border Patrol morale, the report that you hadn't read. What is the current state of morale in your sector among agents?

A: The current state of morale in the El Centro Sector, the premier sector in the U.S. Border Patrol, is one of what I would term optimal morale given current conditions because our agents are focused on providing consequences. And a majority of our agents are focused on patrolling that border, doing the things that they signed up to do, such as catch bad people and bad things. That portends a positive morale amongst the agents.⁴⁹

IV. REPUBLICANS' REPEATED TRANSCRIBED INTERVIEWS HAVE PULLED CHIEF PATROL AGENTS FROM THEIR DUTIES AT THE BORDER

The transcribed interviews demanded by Republicans have taken Chief Patrol Agents away from their responsibilities at the southwest border. Each of the six Chief Patrol Agents spent numerous hours answering the questions of Committee staff. Moreover, the Chief Patrol Agents explained that multiple hours of preparation were required prior to participation, in order to ensure efficient and productive interviews in which they would be in a position to provide fulsome and accurate information in response to the Committees' questions. One Chief Patrol Agent explained that he spent approximately nine hours preparing for his transcribed interview.⁵⁰ Collectively, the Republican-led transcribed interviews amounted to dozens of hours where Chief Patrol Agents were removed from their duties in the sectors they oversee.

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023):

Q: Good morning. I wanted to circle back to the time spent preparing for this interview.

So in your own estimation, how long would you say that you spent preparing for this today?

A: Maybe 8 hours.

Q: Okay. And is it safe to say that transcribed interviews generally are not a typical part of your duties as Chief Patrol Agent?

⁴⁹ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Gregory Bovino, U.S. Border Patrol, Department of Homeland Security (July 12, 2023).

⁵⁰ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Anthony "Scott" Good, U.S. Border Patrol, Dept. of Homeland Security (June 29, 2023).

A: Definitely.

Q: So if you hadn't been preparing for this interview today, how would you have been spending your time as Chief Patrol Agent?

A: I would have been back at my sector doing the duties of the Chief Patrol Agent.⁵¹

In light of the repeated misrepresentations regarding the southwest border by Chairmen Comer and Green, and their failure, thus far, to publicly release the full interview transcripts, the Committees' Democratic staff will endeavor to provide ongoing updates to all Democratic Members on the status of these investigations to ensure the Committees' work is carried out in a transparent fashion.

⁵¹ Committee on Oversight and Accountability and Committee on Homeland Security, Transcribed Interview of Chief Patrol Agent Jason Owens, U.S. Border Patrol, Department of Homeland Security (May 5, 2023).